SRS 02E-53 ENGROSSED

First Extraordinary Session, 2002

SENATE BILL NO. 27

BY SENATOR HAINKEL

PUBLIC OFFICIALS AND EMPLOYEES. Constitutional amendment to authorize legislature to provide for the removal of any state or local public official or employee. (2/3-CA13s1(A))

1	A JOINT RESOLUTION
2	Proposing to enact Article X, Section 25.1 of the Constitution of Louisiana,
3	relative to state or local public officials or employees; to require that
4	the legislature provide by law for the removal of a state or local public
5	official or employee upon conviction of a felony; and to specify an
6	election for submission of the proposition to electors and provide a
7	ballot proposition.
8	Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of
9	the members elected to each house concurring, that there shall be submitted
10	to the electors of the state, for their approval or rejection in the manner
11	provided by law, a proposal to add Article X, Section 25.1 of the Constitution
12	of Louisiana, to read as follows:
13	§25.1. Removal by Suit; State or Local Public Officials or Employees
14	Article X, Section 25.1 is all proposed new law.
15	Section 25.1. Notwithstanding any provision of this constitution
16	to the contrary, the legislature shall provide by general law for the
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CODING: Words in struck through are deletions from existing law; words underscored and boldfaced are additions.

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removal of any state or local public official or employee, whether 2 classified or unclassified, from his position of employment, upon 3 conviction, during his employment, of a felony as defined by law. 4 Section 2. Be it further resolved that this proposed amendment shall be submitted to the electors of the state at the statewide election to be held on 5 6 November 5, 2002. Section 3. Be it further resolved that on the official ballot to be used 7 8 at the election there shall be printed a proposition, upon which the electors of 9 the state shall be permitted to vote FOR or AGAINST, to amend the 10 Constitution of Louisiana, which proposition shall read as follows: 11 To require that the legislature provide by general law for the 12 removal of any state or local public official or employee, 13 whether classified or unclassified, from his position of 14 employment or office, upon conviction, during his employment or office, of a felony as defined by law. (Adds Article X, 15 16 Section 25.1) The original instrument was prepared by Jerry J. Guillot. The following digest, which does not constitute a part of the

> Hainkel (SB 27) **DIGEST**

<u>Present constitution</u> provides that a classified state employee subjected to discipline has a right of appeal to the State Civil Service Commission. (Const. Art. X, Sec. 8(A) and 12(A))

legislative instrument, was prepared by H. David Smith.

Present law provides for termination of state employees both classified or unclassified and removal of such employee from his position of employment with the state upon conviction, during his employment, of a felony as defined by state or federal law. (R.S. 42:1414)

The La. Supreme Court in AFSCME, Council # 17 v. State ex rel. Dept. of Health and Hospitals, 789 So. 2d 1263(La. 2001), held that present law (R.S. 42:1414) violated the separation of powers principle as applied to classified state employees.

<u>Proposed constitutional amendment</u> requires that the legislature provide by general law for the removal of any state or local public official or employee, whether classified or unclassified, from his position of employment or office, upon conviction, during his employment or office, of a felony as defined by law.

Specifies submission of the amendment to the voters at the statewide election to be held on 11/5/02.

(Adds Const. Art. X, Sec. 25.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill.

1. Authorizes removal of a local public official and local employee upon conviction of a felony during his term of office or employment.